

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, August 10, 2015, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, President; Jeff Valiant, Vice President; Bill Byers, Jeff Willis, Brad Overton, Amanda Mosiman, and Richard Reid.

Also present were Morrie Doll, Attorney; Sheila Lacer, Assistant Director; and Molly MacGregor, Staff.

MEMBERS ABSENT: none

Roll call was taken and a quorum declared present.

MINUTES: Upon a motion made by Jeff Willis and seconded by Richard Reid the Minutes of the last regular meetings held July 13, 2015 were approved as circulated. Brad Overton and Guy Gentry abstained.

The President explained the rules of procedure.

SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:

PP-15-14 – Olde Piper Glen Subdivision by Ubelhor Properties, LLC, Daniel Ubelhor, Member. OWNER: Daniel J. Ubelhor Revocable Trust w/Life Estate, Daniel Ubelhor, Trustee. 5.24 acres located on the S side of Oak Grove Rd. approximately 611 feet E of the intersection formed by Waldo Way and Oak Grove Rd., Ohio Twp. being Parcels 1 & 2 in Ubelhor Minor Subdivision. *Complete legal on file. Advertised in the Standard July 30, 2015.*

The President called for a staff report.

Mrs. Lacer said to let the record show that Daniel Ubelhor is also present in the audience. She stated we do have all of the return receipts except for James & Joann Kempf and James & Mary Ragsdale. She said they were mailed to correct address within 21 day deadline so when they come back the applicant will need to bring them in. Mrs. Lacer said the zoning is R-1 which was just approved this evening by the County Commissioners. She said it requires a minimum of 60' at the building line and a minimum lot area of 6,000 square feet. She said there is no flood plain on this property. She said they have five lots ranging from .4 acre to 2.4 acres and there is an outlot for greenspace. She said the street construction plans were approved today by the Commissioners. She asked if they required a consent agreement with Newburgh.

Mr. Morley said no.

Mrs. Lacer said they have submitted a letter requesting to wave sidewalks in the entire subdivision and this body will need to determine if they will approve the waiver or whether they will require sidewalks in some way, shape, or form. She stated the drainage plans were approved today. She said Newburgh Sewer has capacity and Chandler Water has capacity. She said the proposed development is a five lot residential subdivision and the plat is in technical conformity with the ordinance.

The President asked the applicant if they had anything to add to the staff report.

Mr. Morley submitted a colored layout of the proposed subdivision. He said it is a simple five lot subdivision with a cul-de-sac and sits on an existing lake. He said as mentioned they are asking for no sidewalks for this project given that it is only five lots but if that is not acceptable to the Board he would like to discuss further.

Attorney Doll asked where the bus would pick up at.

The President stated the bus would pick up at Oak Grove Road; it would not come into the subdivision because they could not turn around in that cul-de-sac so they would have to walk out. He said that is his reasoning...it is such a small project that the sidewalks won't cost them much money. He stated he is adamantly opposed to eliminating sidewalks.

Richard Reid said he doesn't see why they need sidewalks there. He said there will not be traffic; it will just be local folks and people walk in the streets all of the time.

Amanda Mosiman said not kids needing to get to school. She said if they have to walk out then she is with Guy on this one; she thinks they need to keep the sidewalks.

Attorney Doll asked if they knew the costs of the sidewalks.

Mrs. Lacer said she had their certificate of compliance which had the sidewalks on it. She said sidewalks for the entire subdivision on both sides of the street is \$13,500.

Attorney Doll asked why we needed them on both sides.

The President stated that is his compromise.

Mr. Morley said their preference is to do no sidewalks but...

The President called for a motion.

Richard Reid made a motion to exempt sidewalks. Jeff Willis seconded the motion. Everybody else opposed the motion therefore it did not carry.

Richard Reid made a motion to exempt half of the sidewalks.

Mr. Morley submitted an exhibit showing the subdivision with half of the sidewalks. He said this would be their second choice where they would put sidewalks on the lots that have homes. He said this would be about a \$6,500 savings. He said he thinks if the goal is to provide sidewalks for the kids to get to the bus stop he thinks this more than meets that goal.

Richard Reid stated he would make that motion.

The President stated we have a motion to exempt the sidewalk ordinance and to only put sidewalks on the east side where the houses are. He called for a second.

Amanda Mosiman seconded the motion and it was unanimously carried.

The President asked for questions from the Board and for remonstrators for or against this project. Seeing none he called for a motion.

Brad Overton made a motion to approve PP-15-14 with the amendment. Richard Reid seconded the motion and it was unanimously carried.

PP-15-15 – Kensington Manor Subdivision by Ubelhor Properties, LLC, Daniel Ubelhor, Member. OWNER: Ubelhor Properties, LLC, Daniel Ubelhor, Member. 14.46 acres located on the N side of Vann Rd. approximately 1540 feet E of the intersection formed by Casey Rd. & Vann Rd. Ohio Twp. *Complete legal on file. Advertised in the Standard July 30, 2015.*

The President called for a staff report.

Mrs. Lacer stated to let the record show Daniel Ubehlor is present in the audience. She said we have return receipts. She stated the zoning is R-1 which requires a minimum of 60' at the building line and a minimum lot area of 6,000 square feet. She said there is no flood plain. She said this subdivision is 16 lots ranging from .47 acre to 1.5 acres and has an outlot for open space. She stated the street and construction plans were approved by County Commissioners with an amendment.

Mr. Morley stated the road improvements were approved subject to a minor modification changing curb inlets to curb outlets at the entrance to Vann Road.

Mrs. Lacer stated they have submitted a letter requesting to waive sidewalks in the entire subdivision which must be approved by the Area Planning Commission. She said drainage plans were approved. She said Newburgh Sewer has capacity and Chandler Water has capacity. Mrs. Lacer said it is a sixteen lot residential subdivision and it is in technical conformity.

Richard Reid asked what they were asking for on sidewalks.

Mr. Morley stated they were asking for no sidewalks but seeing how the last vote just went as a plan 'B' they are asking for sidewalks in front of the homes with the exception of one side on the long leg where there are no homes. He said so they would have sidewalks on all of the lot frontages except for on one side of the long leg that goes out to Vann Road. He said again he feels like this accomplishes the goal of getting families to the bus.

Richard Reid asked if this abuts the other subdivision.

Mr. Morley said yes.

Attorney Doll asked where the bus would stop.

The President said on Vann Road.

Attorney Doll said but where will they be standing; on the west or the east side.

The President stated it won't matter because they typically just cut it off. He said the bus will be in the middle.

Mr. Morley stated the reason they chose that side was because it was more level and there was more room for grading on that side.

Jeff Willis asked if it would be easy to cross.

Mr. Morley said yes, they will have ADA ramps.

Bill Byers asked that where these sidewalks terminate at the street will there be another sidewalk there or does it just stop at the street.

Mr. Morley said it will stop at the street. He said a majority of subdivisions in Warrick County have internal sidewalks that basically dead end into a county road. He said there are no sidewalks along county roads so they provide internal circulation but the reality of it is they don't let people walk to the next neighborhood down without going out onto the street.

The President asked for any more questions on sidewalks. Seeing none he called for a motion.

Richard Reid made a motion to allow no sidewalks on a portion of the subdivision. The motion was seconded by Amanda Mosiman and unanimously carried.

The President asked for questions regarding the plat.

Amanda Mosiman asked about the statement on the plat stating "Warrick County shall have no responsibility in maintaining the existing lake.." who will maintain that.

Mr. Morley said it will be the subdivision homeowners. He said that was a note requested by the County Drainage Board.

The President asked for remonstrators for or against the project. Seeing none and being no questions from the Board he called for a motion.

Brad Overton made a motion to approved PP-15-15 with the sidewalk amendment. Bill Byers seconded the motion and it was unanimously carried.

PP-15-16 - Orchard View Condominiums PUD Sec. 1D by Affordable Builders of Indiana LLC, Doug Lewis, Member. OWNER: Alan Holweger. 4.18 acres located on the E side of Taylor Dr. approximately 0' NE of the intersection formed by Taylor Dr. & Park Place Dr, Ohio Twp. being Lot 12A in Orchard View Condominiums PUD 1-C & Pt. of Orchard View Condominiums PUD Sec. 1. *Complete legal on file. Advertised in the Standard July 30, 2015.*

Jim Biggerstaff, and Doug Lewis were present.

The President called for a staff report.

Mrs. Lacer stated we only have the white pay receipts for the notice mailed to adjacent property owners so we still need all of the green cards. She said the zoning is PUD/C-4 and there is no flood plain. She said this is a proposed 10 lot subdivision with three out-lots and nine condominium units. Mrs. Lacer said to explain this a little bit, we had Engelbrecht Place then Orchard View came in on top of it. She said this is lot 12A and they are taking the remaining 56 feet off of the original Orchard View so they had to show the entire thing. She said the plat shows different lots but it is going to be one lot and they will divide that at a later time. She said they are trying to clean it up. She said on the cul-de-sac we have a primary of the remainder of Engelbrecht and they are going to secondary it however the road is a little skewed so this plat is correcting the legal. She said Bobby Howard advised to do it like this. She said so it is correcting the legal and it's giving them nine condominium units down here. She said Mr. Biggerstaff has a recorded power of attorney to represent Mr. Holweger.

Mr. Biggerstaff said what happened is that they had a centered cul-de-sac but Newburgh Sewer does not allow any sewer lines under the edge of pavement so they flipped the cul-de-sac and made it an offset cul-de-sac.

Mrs. Lacer said they are asking for no improvements to Taylor Drive or Park Place Drive and that was approved today. She said the interior street will be private. She said they have requested a waiver from the Plan Commission to allow 40' right of way for the private street instead of 50' due to a hardship of not enough room. She added that the County Engineer has signed off on that and the Commissioners have approved it knowing that it would have to get final approval from this Board. They have filed amended street construction plans for Park Place Drive for the area that is on the northeast corner of this property. She said the pavement has

skewed into part of the Orchard View section so this plat is also correcting the legal description and placing the right of way in the correct position. She said they also have a secondary plat filed for the remainder of the Engelbrecht Place subdivision (Section 2 Phase IV) and will have to put up a letter of credit for the construction of the remainder of Park Place Drive which is the road frontage for the remaining property. She said they are also requesting no sidewalks. Mrs. Lacer stated they will need to make two motions before they approve the subdivision.

Attorney Doll agreed.

Mrs. Lacer said drainage plans were approved. She said Newburgh has capacity for the nine condo units and Chandler has water capacity. She said it is going to be 9 lot PUD and the plat is in order. Mrs. Lacer said in the northwest corner they have filed a vacation for a portion of a Drainage Easement on the northern end of Lot 9. She said it is scheduled to be heard on August 24, 2015 and any approval should be subject to the Vacation being approved by the County Commissioners.

Mr. Biggerstaff said we have a cross drainage easement and we have a little bit of that extended into the buildings so it is going to be terminated with the new drainage easement.

The President asked if they will be one or two storys.

Mr. Biggerstaff said they will be one story and only have two bedrooms; they will be high end two bedroom units.

Richard Reid asked if that was they were building right now next to this.

Mr. Biggerstaff said yes.

Attorney Doll asked if Affordable Builders built the condos across the street on the south side.

Mr. Biggerstaff said yes.

Attorney Doll said they built those as a PUD.

Mr. Biggerstaff said he doesn't know what the zoning is, they were already lots.

Mrs. Lacer said it is C-4.

Attorney Doll said C-4 is the zoning but they were allowed as a PUD. He said they platted them as a PUD then surveyed them off and sold them building by building as metes and bounds described real estate.

Mr. Biggerstaff said yes, as part of a lot.

Attorney Doll which they never modified or amended the plat. He said they then received a complaint from Bamburgh law firm reading title insurance commitments, wanting to know the legality of the lots because they PUD wasn't designed like that and they never came back and amended it, never came back and asked, they surveyed them, created metes and bound descriptions, and sold them.

Mr. Biggerstaff said right.

Attorney Doll asked what is going to happen to folks when they go to sell their houses because they do not have legally described real estate that is part of a plat in a subdivision that is required to exist. He said he thinks they have a real legal issue there.

Mr. Biggerstaff said he has talked to the banks and the issue is that it is all zoned C-4 and they can't make a residential loan on a C-4.

Attorney Doll said no they can't make a residential loan on a condominium PUD so they made a lot so they could sell them dirt so they could get a typical home mortgage because from what he has been told financing by banks on condominium homes is difficult to get since the recession. He said so why would we want to approve another PUD when they violated that last one that they approved.

Mr. Biggerstaff said he needs to discuss that with Mr. Holweger. He said they have followed law and have put all of these in lots now.

Attorney Doll said he understands what he is saying but why didn't Mr. Biggerstaff come back and fix the old problem for the identical applicant. He said this is the same applicant who did that. He said why didn't he come back and fix that before he brought them a new plat.

Mr. Biggerstaff said they corrected everything on this plat per their request; they are all lots.

Attorney Doll said he appreciates that, thank you for following the law with this one but they still haven't fixed the issue with the last one.

Mr. Biggerstaff said they will have to discuss that with Mr. Holweger then.

Attorney Doll said no, he doesn't think that they have to. He said if this Board has their application in front of them tonight, they could decide whether to approve it or not, but we have a direct violation of the last plat by this builder in this subdivision.

Mr. Biggerstaff stated what he is saying is that they have followed the law with this plat to the "T" and anything that was done previously will have to be taken up with Mr. Holweger.

Attorney Doll said it is up to the Board if they are going to approve this plat or not but it would be his recommendation to the Board that they not because the last plat we approved by this

applicant in this subdivision has sold lots to innocent buyers who thought they got a valid legal description per the plat and they have not.

The President asked if they could approve it contingent upon correcting the last one.

Attorney Doll said probably not. He said the question is why do they want to approve another plat for this applicant when the last one that they did was platted as a PUD then they, under the table...

Mrs. Lacer clarified it was not a PUD. She said they were single lots and the buildings were issued as duplexes and then they sold the duplexes.

Attorney Doll said okay, then they built they split the duplex lots and sold them with legals such as 26A and 26B.

Richard Reid said that is a legal description.

Attorney Doll said but it is not on the plat.

The President asked if that would correct it, an amended plat.

Attorney Doll said yes but we talked about that 3 months ago.

Mr. Biggerstaff said he is just the messenger. He said we can do an amended plat, that is not a problem. He said but with this project, this is Doug Lewis, he is a managing member. He said we have platted the lots based on their recommendation and they have all of the amenities in order. He said he has no problem passing it along that they have to do an amended plat but it won't be a PUD.

Attorney Doll said don't do it as a PUD then if you don't want to. He said make it as regular duplex lots and give them descriptions and call them lot A and lot B and put it on the plat so these people sell the houses 10 to 15 years from now they can figure out what they own.

Mr. Biggerstaff said this has been the policy for the last 25 years he understands that has all changed.

Attorney Doll questioned to subdivide a lot from a plat.

Mr. Biggerstaff said yes sir; he can name 5 subdivisions if he'd like.

Richard Reid said Vanderburgh County does it.

Mr. Biggerstaff said Ubehlor has done it; Lakeland Court we did it; Boonville has done it; that has been the practice in the past.

Attorney Doll stated he cant remember seeing it since he has been in council here.

Mrs. Lacer said no, it has been in the past.

Attorney Doll said so for the last five years it has not been done.

Mr. Biggerstaff said it is not a big deal to make it an amended plat.

Attorney Doll asked how we know that it would get filed. He said they talked about it 3 months ago.

Mr. Biggerstaff said he is giving his word they will do the amended plat.

The President asked for questions from the Board.

Amanda Mosiman asked if these were single story.

Mr. Biggerstaff said yes.

Amanda Mosiman said and they are attached. She said so the parking...

Mrs. Lacer said she believes they are four-plexes and three-plexes.

Mr. Biggerstaff said yes; they put each one as a lot. He said Vanderburgh County handles it, in a horizontal property act, you've got four units then you make an as-built which is filed with the horizontal property act and that is how they do it. He said they are all by units and property addresses, they are not lots.

Mrs. Lacer asked if these units all had garages.

Mr. Biggerstaff said yes, they all have 2 car garages.

Amanda Mosiman said and they are asking for no sidewalks and a variance because they want it to be a private drive.

Attorney Doll said no.

Mr. Biggerstaff said it is private. He said it is a PUD and private other than the utilities and everything will be maintained by the association.

The President asked for questions for the Board. Seeing none he called for a motion on the right-of-way width.

Richard Reid made a motion to approve the plat with the 40 foot right-of-way on a private road.

Bill Byers seconded it.

Jeff Willis asked if that private drive would go through to Park Place Drive.

Mr. Biggerstaff said no.

Mrs. Lacer said they will be putting in a berm with trees so cars won't be able to drive through there.

The President said if there is no further discussion there is a second on the floor, all those in favor.

A vote was taken with 4 in favor and 2 opposed being Amanda Mosiman and Brad Overton. The motion was carried.

The President called for a motion regarding the sidewalk waiver.

Richard Reid said he doesn't see why they need sidewalks since it is going to be so narrow through there anyway.

Mr. Biggerstaff on the sidewalks there will be a lot of driveways so the sidewalks will just be fill in between them which will only amount to around 338 feet of sidewalks.

Doug Lewis said he doesn't think there will be a lot of school bus riders in there.

Richard Reid said it will mostly be senior citizens.

Jeff Willis asked how long the private drive will be.

Mr. Biggerstaff said around 248 feet.

Richard Reid said but you need a little green area in there for the drainage too.

Mr. Biggerstaff said all of our common areas are green areas and there are quite a few common areas.

The President stated we have a motion on the floor and called for a second.

Bill Byers seconded the motion. A vote was taken with 2 in favor of the motion being Richard Reid and Bill Byers and 5 against the motion being Guy Gentry, Amanda Mosiman, Brad Overton, Jeff Valiant, and Jeff Willis; therefor the motion did not carry.

The President stated that one did not pass so sidewalks will have to be installed.

Discussion ensued about the legality of approving this plat based on the previous issue.

Attorney Doll stated they could table it but he doesn't think they could condition it.

The President called for remonstrators for or against the project. Seeing none he called for a motion.

Richard Reid made a motion to approve PP-15-16 subject to the drainage vacation. The motion was seconded by Jeff Willis.

The President stated he agrees this is in technical compliance but he wanted to go on record and say he doesn't care if the next one is or not, they have been told twice; before Affordable Builders of Indiana bring anything back to this Board, this has to be done or he has a negative vote.

Mr. Biggerstaff asked if they could have a formal request in writing sent to Mr. Holweger. He stated these lots were done a long time ago.

Attorney Doll said he doesn't think they should have to ask them to comply with the law and the county ordinance. He said that is his biggest problem with it.

The President asked if they could send a simple letter.

Attorney Doll said it could be one sentence.

The President said okay that will work, to Mr. Holweger and Mr. Biggerstaff.

Motion carried with 2 opposed being Amanda Mosiman and Brad Overton.

OTHER BUSINESS:

Formal Complaint: D. Elaine Clouse, 800 Mt. Gilead Rd, Boonville, IN – Alleged junk/salvage yard in a “CON” Recreation and Conservancy zoning district. Cease and desist letter sent March 9, 2015. On April 13, 2015 APC gave her to August 10, 2015 to come into compliance.

Elaine Clouse was present.

The President called for a staff report.

Mrs. Lacer said Mrs. Clouse was in here back in April and the Board gave her until tonight to come into compliance. She said Guy Gentry went to the property on August 5, 2015 and took photos. She said the area is overgrown but no trash can be seen from the roadways, but there is some trash still on the property. She said Mrs. Clouse has made several trips to the office to report when she has taken some things away. She said she has been in many times and has been working to get it done.

They President stated he did go back by the property today and took pictures but he didn't have time to print them off. He said it is has been mowed some. He said it is still overgrown but you

can't see anything from the roadway. He said he thinks there is some debris back up towards the house but it is not visible from the road.

Ms. Clouse stated that she took some of that out Saturday. She said the first real help that she has had come and mowed while she loaded up his truck. She said there is probably a filing cabinet in the picture and that is gone.

The President stated the pictures shown were not within the roadway. He said he trespassed onto her property to get those pictures but from the roadway you can't see any of that; you can barely see the end of the home. He said you can't see anything from Mt Gilead Road.

Ms. Lacer stated the complaint was on a large accumulation in the driveway.

The President stated that was gone before the last meeting. He said he has talked with Elaine and she is trying to get it cleaned up and sell.

Ms. Clouse said she has talked to the people that want it about going ahead and buying it and she will help them get it cleaned up then they will tear the house down. She said she has known those people for years and they want to eventually retire and build them a house.

The President called for a motion.

Jeff Willis stated she has cleaned up the driveway and he does not see any reason to keep bringing her back in front of the Board. He said she has cleaned up what the complaint was about and it seems that she is going to continue to clean it up so he would make a motion that she is no longer in violation.

The President stated his only comment is that she needs to continue to clean it up and not let it get back to how it was.

Richard Reid seconded the motion and it was unanimously carried.

Formal Complaint: Henry & Mary Lunenburg, 5488 Lee Acres Drive, Boonville, IN ~ Violation of Yard Sale Ordinance ~ Cease and desist letter sent July 23, 2015 and resent July 31, 2015.

The President stated he does not see anybody in the audience regarding the complaint and called for a staff report.

Mrs. Lacer stated the complaint filed on June 17 stating they were doing 2-3 yard sales a week and at least 8 sales in the past 4 weeks at residence. She said the Zoning Inspector went to the property and took photos reporting there was a small rummage sale going on at the address. She said a cease and desist letter was mailed out July 23, 2015 but to an incorrect address; it was sent to a Lee Acres in Chandler and it is a Boonville address. She said a new letter was resent on July 31, 2015 to both the property address and also to the address the tax statements are sent.

She said they own where Henry's Mobile homes are in Chandler . She said the letter informed them to contact the office upon receipt of the letter. She said a woman contacted the office and talked to Molly. She said Molly tried explaining the ordinance to her and that she could only have two yard sales per year; the lady stated that is how they make their extra money and before she could do any more explaining, she hung up the phone and we have not heard anything since.

The President asked if they have heard from the complainant.

Mrs. Lacer said she called the other day but the inspector has been on vacation so we did not get pictures. She said that is why the President went to take the other pictures for them.

Richard Reid asked Attorney Doll what the law is on that.

Attorney Doll said we have an ordinance that states you cannot have more than two per calendar year.

Mrs. Lacer stated otherwise it is a resale shop.

Attorney Doll said that is correct and it would have to be rezoned. He said if these facts are true she is in violation, or was. He said he suggests they table it for a month and send the inspector back out and ask him to report back to us whether or not it appears they are still doing it.

The President called for a motion.

Richard Reid made a motion to table the complaint for one month. The motion was seconded by Jeff Willis and unanimously carried.

Microbreweries/wineries

Attorney Doll said he wrote Sherri on his recommendations on June the 8th, and they should have a copy in their folders. He said Indiana has 3 pretty progressive statutes regarding craft liquor. He said microbreweries act and the farm wineries act and the artesian distillers act which is design to create much like the Kentucky has the artesian bourbon distilleries that are exploding in the common wealth. He said they were asked to bring back recommendations to Board and his recommendation is to create a Special Use and in the case of the wineries he thinks they have to be in the Agriculture district because they are wineries and they have to have a bunch of acreage to do that, but in the case of the microbreweries and the artesian distilleries they could be in an Agricultural district or a Commercial district. He said bear in mind they could combine these; they could have a distillery with a winery with a brewery all at the same location under Indiana law.

Amanda Mosiman said they could all be in the same building but would have to have separate docks...

Attorney Doll said that is correct and they would have to have separate permits. He said but take a look at the number. He said a microbrewery is 90,000 barrels; that is a lot of beer. He said a winery is a million gallons, and bourbon would be 10,000 gallons. He said his recommendation is if they want to do this, which is a fast growing industry here in the Ohio Valley, they would consider creating Special Uses with wineries in ag. only and microbreweries and artesian distilleries in ag. and commercial districts. He said rather than leaving it up to them to define what these institutions should be he recommends they say in their Special Use that if you have a permit for a microbrewery under Indiana Code 7.1-3-2 you can have a Special Use in these categories of districts, because it does not do us any good to redefine what they are because state law will trump them so let's incorporate their definitions into their ordinance. He said the Board should figure out what districts they want to permit them in, create a special use and there they go.

The President said so wineries under a million gallons can pop up anywhere without anything.

Attorney Doll said right now he thinks it could pop up in any Agricultural area because it would have to have vineyards because they are farm wineries and you can't have the farm part unless you have the Ag. part.

Amanda Mosiman said her confusion is the way she understands it that you could have farm winery license and not have a facility. She said there is something about the farm winery then you can sell at the farmers market.

Attorney Doll said you can buy wine in bulk, ship it into Indiana, bottle it and then sell it. He said but he doesn't think that is what the state law wants you to do but you can do that, and you would do that at a farm winery. He said but if you are going to have vineyards, which seems to be the trend, then it has to be in an Ag. district.

Amanda Mosiman said and it is an agritourist thing.

Richard Reid asked then name of the winery we have.

Amanda Mosiman said it was Mystique, it is a farm winery.

Richard Reid said they don't grow anything do they.

Amanda Mosiman said yes they do. She said they buy some as well and they buy their juice.

Attorney Doll said why don't we just put them in their permitted districts so folks don't have to mess with them. He said he thinks if they have remonstrators that show up that don't want 10,000 gallons of bourbon next to them because of the smell or whatever, then he would like to hear about that.

Jeff Willis asked if we would be able to stop them anyways.

Attorney Doll said probably not but on the brewery and the distillery you probably want to have a hearing for that. He said it would give the neighbors the opportunity to show and say what are you doing about the odors, the smell, whatever. He said some of us like but may not want to smell it every day. He said it is up to the Board, if they want to plug it in where it will add these uses to the districts then that is another way to go. He said they don't have to deal with it tonight but now they know what it is.

Amanda Mosiman asked if Sherri had any thoughts on it.

Attorney Doll said he talked to her today and he thinks that is an accurate representation of how she felt about it. He said they both thought it should be a special use and as they know they would vote on amending the ordinance and then the Commissioners would have to vote on it.

Jeff Willis said his concern with the Special Use, especially the farm winery is that even though the neighbors would complain, we could not stop it.

Attorney Doll said he could make farm wineries in Ag. without a Special Use, and then put microbreweries and distilleries special uses in certain categories like Ag. or Commercial, but if they are putting multiple uses in a single location they may still have to get a special use if they are putting a distillery with a winery.

Amanda Mosiman said that is the more common thing.

Attorney Doll said yes because they use the barrels from the distillery for the wine. He said you can buy a brewery that is a packaged contraption that is the size of a semi-trailer. He said you haul it in and you are in the brewery business and that is what has happened on West Franklin Street. He said this is a big deal and a big money maker. He said he thinks Warrick County lends itself very well to the winery and the distillery. He said if you've been to Kentucky it is like a herd of elephants from distillery to distillery.

Amanda Mosiman they are going to want a lot of the Indiana market. She said these guys have had this stuff sitting waiting to be able to put it in barrels.

Bill Byers asked what Cardinal was doing in Bloomington.

Attorney Doll said he could not answer that.

Bill Byers asked if he was aware of them

Attorney Doll said no but he is aware of Oliver Winery.

Bill Byers said there is a distillery opened up there called Cardinal.

Attorney Doll said he has a daughter at IU. He said Oliver Winery are the people that started this trend in Indiana and Bill Oliver was the founder of that. He said he had the distinction of

studying tax law; he was under Professor Oliver at law school and he was sort of the founder of the Indiana wine industry and that has been a huge success story. He said so we are going to have this come to us and we are not prepared for it.

Amanda Mosiman said Pepper Ridge already has their distillery up.

Attorney Doll said so we need to prepare for it now and then telling economic groups and others hey we are ready for you; we have it all set; not a lot of red tape; we'd love to have you. He said it creates jobs, they pay property taxes, it creates tourism and there's big money in it.

Jeff Willis said under the farm wineries they can import the juice, ferment it, and sell it as wine.

Attorney Doll said that is correct.

Jeff Willis said so they can do that outside of their farm as well.

Attorney Doll said he has never seen anybody try to do that but normally they are doing it in conjunction with a winery with a vineyard until their grapes mature enough that they have enough to make wine.

Amanda Mosiman said it takes four years.

Attorney Doll said and they may do it after that but he knows they can buy it by railcar; a railcar load of it at a time if they want.

Jeff Willis said he was wondering if they should put it in Agriculture with no Special Use so if somebody just has the winery and then Commercial Special Use with the brewery or distillery.

Attorney Doll said he doesn't know if they want to put the winery into two categories because they are going to have to get permits with the State also, and Indiana calls them quote, farm wineries so he is not sure the State would give them a permit to do it in a commercial district. He said he thinks they will always make the winery be on the farm but the others, no, they could be anywhere you permit them.

Amanda Mosiman said now you will have tasting rooms; would that automatically be in a commercial district.

Attorney Doll said you can have a tasting room in a farm winery.

Amanda Mosiman asked if they should have a definition of a tasting room then.

Attorney Doll said he has a blurb in here about this, he thinks brew pubs are part of microbreweries where you can pay for buy a bottle at a time.

Mrs. Lacer asked about wineries that have music.

Attorney Doll said he thinks they can do that as part of the Special Use. He said they can say if music and or entertainment is allowed or not and until X pm. He said they could put all of that into a Special Use if they want to do it. He said he thinks that is another reason they should put it in a Special Use if they want to control things like that.

Amanda Mosiman said another thing with the wineries from the legal aspect is that the grapes are highly sensitive to pesticides so by bringing them up with a Special Use and maybe helping them find the right spot in the county...

Attorney Doll said not next to corn fields.

Amanda Mosiman said right, not next to where they are going to fly. She said maybe helping them find their place in Warrick County would be the best thing for their future and ours.

Attorney Doll said when Oliver found out he was from southern Indiana he said there is a lot of coal mining in Indiana. He said yes there is, and Oliver said that is some of the best ground to grow vineyards on because of the high acidic content of the soil. Attorney Doll said he doesn't know about that but if that is true then Warrick County is one of the best places to grow vines; they have thousands of acres of strip mined ground.

Brad Overton asked what kind of motion they need.

Attorney Doll said do they want it do it tonight or do they want to chew on this.

The President said we could table it or address it.

Amanda Mosiman said she'd make a motion that they include microbreweries, farm wineries, and distilleries as a Special Use as Morrie has outlined in his email; farm wineries in Ag., microbreweries and artesian distillers in Com. and Ag. with a Special Use.

Attorney Doll said so there are no other restrictions such a music and entertainment as so forth; they will leave that silent.

Amanda Mosiman said yes, we will deal with those as they come to us.

Mrs. Lacer asked if she the motion was for all of them in Con and Ag.

Attorney Doll stated all in Ag., microbreweries and distilleries are also possible in Commercial.

Jeff Valiant seconded the motion and it was unanimously carried.

Chickens/Urban zoning

Amanda Mosiman said her recommendation would be creating an animal control ordinance. She said she has looked at several animal control ordinances where you go so far as have to submit

an application and animal control inspects their facilities and where they say they are going to have chickens. She said what we have to do is change our ordinance because we do not define livestock as the Indiana State Board of Health defines it; we say domesticated animals which creates an issues because there are domesticated animals that are livestock, like horses and stuff like that.

Attorney Doll said that is her recommendation to the Board, to amend the ordinance, do away with our definition of domesticated and adopt the States definition of livestock.

Amanda Mosiman said yes, they state made the Board of Animal Health define a lot that to solidify up a lot of the Indiana Laws because they were dealing with a lot of domesticated animal issues. She said as far as what they are going to require for chickens, they need a housing unit, she doesn't know what they want to require as far as space; they do need protection from minus zero degree weather, no roosters so they don't have the crowing issues.

The President asked what areas are we talking about.

Amanda Mosiman said residential areas, backyard chickens.

The President said he is opposed.

Attorney Doll said we are receiving calls.

The President said then go build a farm, he doesn't want them in his neighborhood.

Bill Byers asked about ducks.

Amanda Mosiman said under definition they are under livestock and considered a poultry.
Amanda Mosiman said so if this goes unchecked and they don't regulate it then...

The President said if they adopt State Statute what does it say.

Amanda Mosiman said we have to define live stock to fix our ordinance just to have anything against it; we have to fix that to have the legal aspect to go after it. She said if we want to have a little bit more teeth to control it, we could limit things. She said so it's either we don't regulate it and we can deal with the mess...

Attorney Doll said a lot of the subdivisions did not envision this so they do not have restrictive covenants against this.

Amanda Mosiman said a lot of people are dealing with this. She said Lafayette is dealing with this, Evansville, Los Angele's; New York is dealing with this. She said it is very popular and from a biosecurity risk and animal health standpoint, this fall, they are going to start tracking these things because of the avian flu. She said we are 6th in poultry, 3rd in ducks, and 3rd in egg layers in Indiana, if you don't think the Board of Animal Health is going to start regulating back

yard chickens and working with DNR on wild catches, we've already been doing it all summer long, they are going to start regulating chickens, and from an Ag. stand point, she is going to have to start testing them and she doesn't know where they are all at. She said DNR quarantined an entire county this spring, so maybe knowing where they are at will be beneficial.

Attorney Doll said and you can limit the number, they could describe the conditions. He said right now not regulating them at all we think they won't be there but he doesn't think that is what is going to happen.

Amanda Mosiman said South Bend is doing it with breed, age, color, number of hens, whether they have a single family dwelling, chickens or females less than six, are they going to be fenced, will they be secured, will there be a coop, and they dictate how high the fence could be.

Jeff Willis said with his fencing company they have been building chicken coops. He said they are aluminum chicken coops, the most beautiful chicken coops he has ever seen in Warrick County.

Amanda Mosiman said she gets at least 2 calls a week.

Attorney Doll said so do they want to bring in something that in depth where they give the specifics like how South Bend is doing...

Richard Reid said he thinks they better do it.

Amanda Mosiman said ultimately they need to bring in Animal Control too.

The President stated he thinks they need to work with Animal Control as well and he thinks they need to work with on something with chickens and they will fine tune where they are going to go and how many and the different classes.

Attorney Doll said so he and Amanda will bring them more information in a draft form.

Bed and Breakfast

Tabled.

ATTORNEY BUSINESS:

Attorney Doll said there was nothing to report.

The President asked him how was court.

Attorney Doll said they realize many months ago they took Wolfes back and got court orders, gave the County the authority to clean it up, and he has certified those orders and given them to

Rodger and nothing has happened. He said he knows the County is busy and Bobby Howard is really busy patching roads etcetera, and we are talking about the Wolfe property on Jamestown and Lincoln, this is out of his hands now because he has gotten everything that Warrick County needs to clean it up. He said there is a court order and nothing is being done.

Discussion ensued about court and attorney costs.

Attorney Doll said on Asher, Mr. Asher had significantly improved his property, and on Sherri's recommendation they asked the court to give them until October because as it cools off this fall, his health is marginal, he could finish cleaning it up. He said he has made good progress. He said he still has Tom Key to get into court.

EXECUTIVE DIRECTOR BUSINESS: None.

The President asked to entertain a motion to adjourn the meeting.

Upon a motion by Brad Overton and seconded by Richard Reid the meeting was adjourned at 7:35 pm.

Guy Gentry, President

ATTEST:

Sheila Lacer, Assistant Director